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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

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11) Civil No. 09cv2109 AJB(RBB)
12 In Re SONY VAIO COMPUTER)
13 NOTEBOOK TRACKPAD LITIGATION) CASE MANAGEMENT CONFERENCE
14) ORDER REGULATING DISCOVERY AND
15) OTHER PRETRIAL PROCEEDINGS
16)
17) (Rule 16, Fed.R.Civ.P.)
18) (Local Rule 16.1)
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17 Pursuant to rule 16 of the Federal Rules of Civil Procedure,
18 a case management conference was held on April 21, 2011. After
19 consulting with the attorneys of record for the parties and being
20 advised of the status of the case, and good cause appearing,

21 IT IS HEREBY ORDERED:

22 1. All fact discovery for phase one (through the filing of
23 the class certification motion) must be completed by all parties
24 on or before February 20, 2012. All class certification expert
25 discovery must be completed by all parties on or before February
26 20, 2012. "Completed" means that all discovery under Rules 30-36
27 of the Federal Rules of Civil Procedure, and discovery subpoenas
28 under Federal Rule of Civil Procedure 45, must be initiated a

1 sufficient period of time in advance of the cut-off date, so that
2 it may be completed by the cut-off date, taking into account the
3 times for service, notice, and response, and any motions to
4 compel, as set forth in the Federal Rules of Civil Procedure.
5 Counsel must promptly and in good faith meet and confer with
6 regard to all discovery disputes in compliance with Local Rule
7 26.1(a). All discovery motions must be filed within thirty days
8 of the service of an objection, answer, or response which becomes
9 the subject of dispute or the passage of a discovery due date
10 without response or production, and only after counsel have met
11 and conferred and have reached impasse with regard to the
12 particular issue. **A failure to comply in this regard will result**
13 **in a waiver of a parties discovery issue. Absent an order of the**
14 **court, no stipulation continuing or altering this requirement will**
15 **be recognized by the court.**

16 2. Plaintiff(s) shall serve on all other parties a list of
17 class certification expert witnesses whom Plaintiff(s) expect(s)
18 to use by December 19, 2011. Defendant(s) shall serve on
19 Plaintiff(s) a list of class certification expert witnesses
20 Defendant(s) expect(s) to use by January 17, 2012. Each party may
21 supplement its designation in response to the other party's
22 designation no later than January 30, 2012. The parties must
23 identify any person who may be used to present evidence pursuant
24 to Rules 702, 703 or 705 of the Federal Rules of Evidence. This
25 requirement is not limited to retained experts. The
26 designation(s) shall comply with rule 26(a)(2) of the Federal
27 Rules of Civil Procedure and be accompanied by a written report
28 prepared and signed by each witness, including in-house or other

1 witnesses providing expert testimony. The failure to fully comply
2 with these requirements may result in the exclusion of expert
3 testimony. A written report is not required from a witness giving
4 testimony as a percipient expert.

5 3. Any motion to join other parties, to amend the pleadings
6 or to file additional pleadings shall be filed and heard on or
7 before December 19, 2011.

8 Any motion for class action certification is to be filed and
9 served by February 20, 2012. Any opposition is to be filed and
10 served by March 19, 2012. The timing of any reply is governed by
11 the Local Rules.

12 4. Please be advised that counsel for the moving party must
13 obtain a motion hearing date from the law clerk of the judge who
14 will hear the motion. Be further advised that the period of time
15 between the date you request a motion date and the hearing date
16 may vary from one district judge to another. Please plan
17 accordingly. For example, you should contact the judge's law
18 clerk in advance of the motion cutoff to calendar the motion.
19 Failure to timely request a motion date may result in the motion
20 not being heard.

21 Questions regarding this case should be directed to the
22 judge's law clerk. The Court draws the parties' attention to
23 Local Rule 7.1(e)(4) which requires that the parties allot
24 additional time for service of motion papers by mail. Papers not
25 complying with this rule shall not be accepted for filing.

26 Briefs or memoranda in support of or in opposition to any
27 pending motion shall not exceed twenty-five (25) pages in length
28 without leave of the judge who will hear the motion. No reply

1 memorandum shall exceed ten (10) pages without leave of the judge
2 who will hear the motion.

3 5. Further settlement conferences shall be held at
4 appropriate intervals during the course of the litigation in the
5 chambers of Judge Ruben B. Brooks. A telephonic, attorneys-only
6 settlement conference shall be held on September 29, 2011, at 8:30
7 a.m. Counsel for Plaintiff is to initiate the call. A further
8 case management conference is set for April 2, 2012, at 8:30 a.m.
9 A mandatory settlement conference date will be set at one of the
10 scheduled settlement conferences.

11 All parties, claims adjusters for insured Defendants and non-
12 lawyer representatives with complete authority to enter into a
13 binding settlement, as well as the principal attorneys responsible
14 for the litigation, must be present and legally and factually
15 prepared to discuss and resolve the case at the mandatory
16 settlement conference and at all settlement conferences. Retained
17 outside corporate counsel shall not appear on behalf of a
18 corporation as the party representative who has the authority to
19 negotiate and enter into a settlement. Failure to attend or
20 obtain proper excuse will be considered grounds for sanctions.

21 If Plaintiff is incarcerated in a penal institution or other
22 facility, the Plaintiff's presence is not required at conferences
23 before Judge Brooks, and the Plaintiff may participate by
24 telephone. In that case, defense counsel is to coordinate the
25 Plaintiff's appearance by telephone.

26 **Confidential written settlement statements for the mandatory**
27 **settlement conference shall be lodged directly in the chambers of**
28 **Judge Brooks no later than five court days before the mandatory**

1 **settlement conference.** The statements need not be filed with the
2 Clerk of the Court or served on opposing counsel. The statements
3 will not become part of the court file and will be returned at the
4 end of the conference upon request. Written statements may be
5 lodged with Judge Brooks either by mail or in person.

6 Any statement submitted should avoid arguing the case.
7 Instead, the statement should include a neutral factual statement
8 of the case, identify controlling legal issues, and concisely set
9 out issues of liability and damages, including any settlement
10 demands and offers to date and address special and general damages
11 where applicable.

12 If appropriate, the Court will consider the use of other
13 alternative dispute resolution techniques.

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15 Dated: April 21, 2011



RUBEN B. BROOKS
United States Magistrate Judge

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cc: All Parties of Record

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1 **CASE RESOLUTION GUIDELINES**

2 **Attendance**

3 All parties and claims adjusters for insured Defendants and
4 representatives with complete authority to enter into a binding
5 settlement, as well as the principal attorney(s) responsible for
6 the litigation, must be present and legally and factually prepared
7 to discuss and resolve the case. Failure to attend or obtain
proper excuse will be considered grounds for sanctions.

8 **Case Resolution Conference Briefs**

9 Written statements, when specifically requested, shall be
10 lodged in the chambers of Judge Brooks no later than five court
days before the scheduled conference. The statements will not
become part of the court file. Written statements may be
submitted on a confidential basis and lodged with Judge Brooks
either by mail or in person.

11 Any statement submitted should avoid arguing the case.
12 Instead the statement should include a neutral factual statement
of the case and concisely set out issues of liability and damages,
13 including any settlement demands and offers to date, and address
special and general damages where applicable.

14 If appropriate, the court will consider the use of other
15 alternative dispute resolution techniques.

16 If you have any further questions, please feel free to
17 contact my research attorney, at (619) 557-3404.

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